IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.836 OF 2007

Indumati J. Mhatre & Anr. ... Petitioners
Versus
Additional Commissioner,
Konkan Division, Mumbai & Ors. ... Respondents

Shri G.S.Godbole for the Petitioners.
Shri Khemani, A.G.P for the Respondent Nos.1,2,3 and 6.
Shri D.R.Banawalikar for the Respondent Nos.4 and 5.

CORAM : ABHAY S.OKA, J.
DATED : FEBRUARY 12, 2007.

P.C.:

1. Heard Advocates appearing for the parties. My attention has been invited to communication dated 14th July, 2006. The said communication issued by the Section Officer of the Revenue and Forest Department of the Government of Maharashtra records that an Application has been filed on 31st July, 2006 by the Petitioners for challenging order dated 19th July, 2006 passed by the Additional Commissioner, Konkan Division. The said letter further records that what has been filed by the Petitioners is the second revision Application under section 257 of the Maharashtra Land Revenue Code, 1966 and the same is not maintainable in view of orders passed in Writ Petition Nos.4168 of 1998 and 248 of 1999.

2. Advocate for the Petitioners has pointed out that by a Judgment and Order dated 13th July, 2005 passed by a Division Bench of this court in Letters

Patent Appeal No.55 of 2003, the decisions which are relied upon in the impugned communication have not been approved. It is held that the decision in Writ Petition No.4168 of 1999 is no longer a good law.

3. It is obvious that the order which is communicated by letter dated 14th July, 2006 has been passed without hearing the Petitioners. If the concerned authority is of the view that proceeding filed by the Petitioners is not maintainable, an order to that effect could not have been passed without giving an opportunity of being heard to the Petitioners.

4. Hence, the order and communication dated 14th July, 2006 is quashed and set aside. The concerned authority will give personal hearing to the Petitioners or their Advocate before deciding the issue as regards maintainability of Application dated 31st July, 2006 (Exhibit F to this Petition). While deciding the said issue, it is obvious that the concerned authority will consider the effect of the Judgment of the Division Bench of this court in Letters Patent Appeal No.55 of 2003.

4. Petition is disposed of in above terms with no orders as to costs.

Judge.